

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Transportation Committee

BILL: SB 52

SPONSOR: Senator Geller

SUBJECT: Commercial Motor Vehicles

DATE: January 4, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Evans	Meyer	TR	Fav/ 1 amendment
2.			BI	
3.			CJ	
4.				
5.				
6.				

## Please see last section for Summary of Amendments

Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

### I. Summary:

The bill provides any person engaged in the retrofitting, rebuilding or modifying of commercial trucks, truck tractors or heavy trucks, as defined in s. 320.01, F.S., into dump trucks must have evidence such person is insured under a commercial liability insurance policy, which must include, at a minimum, \$1,000,000 per accident and \$1,000,000 annual aggregate. Evidence of such insurance policy must be available at all reasonable hours for inspection by any law enforcement officer.

The bill also mandates persons engaged in retrofitting, rebuilding or modification of certain trucks into dump trucks must comply with all federal safety standards provided in 49 C.F.R. 393.

Any person violating these provisions for the first time commits a misdemeanor of the second degree. Any person violating these provisions a second time commits a misdemeanor of the first degree, and any person violating these provisions a third or subsequent time commits a felony of the third degree.

This bill creates s. 316.570 of the Florida Statutes.

## II. Present Situation:

Some of the dump trucks currently on Florida's roads are rebuilt and retrofitted trucks which have been converted into dump trucks. Converting a truck into a dump truck is inexpensive when compared to the cost of purchasing a new dump truck. However, if the conversion is not done in accordance with proper safety standards the likelihood of accidents involving such vehicles is likely to be greater because of potential inadequacies in braking, suspension and steering. To make a converted dump truck, the trailer frame of a tractor-trailer cab is extended and another set of wheels is added to support the additional load. Then the dump apparatus is attached, creating the new dump trucks. An investigative report conducted by NBC Channel 6 News in Miami/Ft. Lauderdale found 9 of 10 dump truck crashes in South Florida in 2001 involved converted trucks.<sup>1</sup>

Title 49 Part 393, Code of Federal Regulations ( C.F.R.), provides federal safety and equipment requirements for commercial motor vehicles. Title 49, Part 393 C.F.R. regulates lighting and reflective requirements, electrical systems, braking requirements, tires, coupling devices, mirrors, emergency equipment, load securement, front end structure, suspension systems, frames, steering wheel systems, and other equipment and safety requirements for commercial motor vehicles. The CFR further requires every employer and employee to comply and understand the requirements and specifications provided in the CFR, and no employer may operate a commercial motor vehicle, or cause or permit it to be operated, unless it is equipped in accordance with the requirements and specifications of the CFR.

Section 316.302, F.S., provides all owners and drivers of commercial motor vehicles operated on the public highways of this state while engaged in interstate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382 (drug and alcohol testing requirements), 385 (safety fitness procedures), and 390-397 (general safety and hazardous materials requirements).

Newly manufactured commercial motor vehicles are not inspected by any government agency prior to being sold. However, the manufacturer is responsible for ensuring the vehicle is in compliance with federal safety requirements. Likewise, when a vehicle is converted from a truck-tractor into a dump truck there is no inspection to ensure such vehicles comply with federal safety standards.

The point when defects would be detected in a commercial motor vehicle is when such vehicle is inspected by an officer from the Office of Motor Carrier Compliance (OMCC). The OMCC is charged with enforcing federal and state commercial motor vehicle and driver safety regulations by performing vehicle inspections. The OMCC's safety enforcement responsibility also includes inspections of hazardous materials vehicles and passenger buses. These inspections are conducted both on the roadside and at OMCC's weigh stations throughout the state. This allows the officers to detect possible vehicle defects and driver deficiencies which could lead to commercial motor vehicle traffic crashes.

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<sup>1</sup> See [www.nbc6.net/news/1798266/detail.html](http://www.nbc6.net/news/1798266/detail.html) (Original airtime Nov. 19, 2002).

### **III. Effect of Proposed Changes:**

This bill defines a “dump truck” as any motor vehicle with a net weight of more than 5,000 pounds, which is registered on the basis of gross vehicle weight in accordance with s. 320.08(4), F.S., and which is properly equipped with a container used for transporting and dumping various materials, resources or items. The bill defines “person” as any form of corporation, limited liability company, partnership, association, cooperative, joint venture, business trust, sole proprietorship or self employed person conducting business in this state.

The bill provides any person engaged in the retrofitting, rebuilding or modifying of commercial trucks, truck tractors or heavy trucks, as defined in s. 320.01, F.S., into dump trucks must have evidence such person is insured under a commercial liability insurance policy, which must include, at a minimum, \$1,000,000 per accident and \$1,000,000 annual aggregate. Evidence of such insurance policy must be available at all reasonable hours for inspection by any law enforcement officer.

The bill further provides any person engaged in the retrofitting, rebuilding or modifying of commercial trucks, truck tractors or heavy trucks, as defined in s. 320.01, F.S., into dump trucks must ensure all such retrofitted, rebuilt or modified dump trucks comply with all federal safety standards provided in 49 C.F.R. 393.

Any person violating these provisions for the first time commits a misdemeanor of the second degree, punishable by up to six months in jail, and a fine not to exceed \$500. Any person violating these provisions a second time commits a misdemeanor of the first degree, punishable by up to one year in jail and a \$1,000 fine. Any person violating these provisions a third or subsequent time, commits a felony of the third degree, punishable by up to 5 years in jail, a fine of \$5,000, and enhanced penalties for habitual felony offenders.

This bill takes effect October 1, 2005.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Any persons engaged in the business of retrofitting, rebuilding or modifying commercial trucks, truck tractors or heavy trucks, as defined in s. 320.01, F.S., into dump trucks must have evidence such person is insured under a commercial liability insurance policy, which must include, at a minimum, \$1,000,000 per accident and \$1,000,000 annual aggregate. This will likely result in higher premiums for such businesses throughout the state.

**C. Government Sector Impact:**

Indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## VIII. Summary of Amendments:

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Subsection (4) was amended to provide that “any person who violates subsection (2) or subsection (3) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any person who violates subsection (2) or subsection (3) a second time commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who violates subsection (2) or subsection (3) a third or subsequent time commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.”

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This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.

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